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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 273

[FNS-2019-0009]

RIN 0584-AE69

Supplemental Nutrition Assistance Program: Standardization of State Heating and Cooling Standard Utility Allowances

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Proposed rule.

SUMMARY: The proposed rule would revise Supplemental Nutrition Assistance Program (SNAP) regulations to standardize the methodology for calculating standard utility allowances (SUAs or standards). The new methodology would set the largest standard, the heating and cooling standard utility allowance (HCSUA), at the 80th percentile of low-income households' utility costs in the State. Standard allowances for other utility costs would subsequently be capped at a percentage of the HCSUA with the exception of an updated telecommunications SUA that would be a standard amount set nationally. These figures would continue to be updated annually and reflective of utility costs in each State.

DATES: Written comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] to be assured of consideration.

ADDRESSES: The Food and Nutrition Service, USDA, invites interested persons to submit written comments on this proposed rule. Comments may be submitted in writing by one of the following methods:

- *Preferred Method:* Federal eRulemaking Portal: Go to <http://www.regulations.gov>.

Follow the online instructions for submitting comments.

- *Mail:* Send comments to Certification Policy Branch, Program Development Division, Food and Nutrition Services, FNS, 3101 Park Center Drive, Room 812, Alexandria, Virginia 22302.

All written comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the written comments publicly available on the Internet via <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Certification Policy Branch, Program Development Division, FNS, 3101 Park Center Drive, Alexandria, Virginia 22302.
SNAPCPBRules@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Acronyms or Abbreviations

American Community Survey, ACS

Code of Federal Regulations, CFR

Consumer Price Index, CPI

Fiscal Year, FY

Food and Nutrition Act of 2008, the Act

Food and Nutrition Service, FNS

Heating and Cooling Standard Utility Allowance, HCSUA

Limited Utility Allowance, LUA

Residential Energy Consumption Survey, RECS

Standard Utility Allowance, SUA

State SNAP Agencies, State agencies or States

Supplemental Nutrition Assistance Program, SNAP

U.S. Department of Agriculture, the Department or USDA

References

- Title 7 of the Code of Federal Regulations, part 273
- U.S. Department of Agriculture, Food and Nutrition Service, Office of Policy Support, *Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2017*, by Kathryn Cronquist and Sarah Lauffer. Project Officer, Jenny Genser. Alexandria, VA, 2019. <https://www.fns.usda.gov/snap/characteristics-supplemental-nutrition-assistance-program-households-fiscal-year-2017>
- Holleyman, Chris, Timothy Beggs, and Alan Fox. *Methods to Standardize State Standard Utility Allowances*. Prepared by Econometrica for the U.S. Department of Agriculture, Food and Nutrition Service, August 2017. <https://www.fns.usda.gov/snap/methods-standardize-state-standard-utility-allowances>

Background

The Food and Nutrition Act of 2008 (the Act) establishes national eligibility standards for SNAP, including allowable deductions from gross income. With the exception of a standard deduction for all households, most allowable deductions are available to households based on their circumstances. Some of these deductions include those for: earned income; dependent care costs when needed for work, searching for work, training, or education; medical expenses over \$35 for elderly or disabled households; and excess shelter costs.

The excess shelter deduction allows households to deduct shelter expenses that exceed 50 percent of their income after all other deductions are taken. For households without an elderly or disabled member, the deduction must not exceed a maximum limit.

Households with elderly or disabled members do not face a limit. Shelter expenses include the basic cost of housing as well as certain utilities and other allowable expenses listed in 7 CFR 273.9(d)(6)(ii). To help streamline the application and certification process, section 5(e)(6) of the Act permits States to use SUAs in lieu of actual utility expenses in determining a household's shelter costs for the purposes of the excess shelter deduction.

States may develop their own SUAs in accordance with criteria set forth in 7 CFR 273.9(d)(6)(iii). States are not required to use a particular methodology when developing SUAs under current program rules. States must update SUAs annually, but are not directed to use particular data sources, and can revise their methodology at any time so

long as they receive FNS approval. In the absence of formal guidelines outlining recommended methodologies, States have considerable flexibility in developing the methodologies and amounts for the standards.

Multiple SUAs may be created by the State to reflect the differences in utility expenses that SNAP households incur. There are three different types of SUAs: heating and cooling SUAs (HCSUAs); a limited utility allowance (LUAs); and single utility allowances (also referred to as “individual standards”). The HCSUA is the largest of the SUAs and available to households that pay heating or cooling expenses separate from their rent or mortgage. The HCSUA includes costs for all other utilities covered by SUAs as well as heating or cooling costs. States may also choose to develop a LUA that includes expenses for at least two utilities, and single utility allowances may be used for stand-alone utility costs. Utility expenses that may be captured in a LUA or a single utility allowance include: electricity or fuel for purposes other than heating or cooling; water; sewerage; well and septic tank installation and maintenance; telephone; and garbage or trash collection.

Though most SNAP eligibility parameters are set at the Federal level, SUAs are an exception because States determine which SUAs are available in their State and how to calculate them. This can lead to considerable variation from State to State. Current rules grant broad discretion to States in determining how SUAs are calculated and the sources of information used. In Fiscal Year (FY) 2019, HCSUA amounts ranged from \$278 to

\$826. The variation in SUA amounts can cause variation in benefit amounts as larger SUAs provide for greater excess shelter deductions resulting in higher benefit amounts.

In FY 2017, HCSUAs were used to determine 63 percent of household eligibility and benefit amounts.¹ Wide variation in SUAs means that households that have otherwise similar shelter costs and household circumstances but live on opposite sides of a State border would have differing benefit amounts based on the choices their States made in developing SUAs. For example, in FY2019, the difference in HCSUAs between two bordering States was as high as \$339, which would cause a difference in benefits of \$55. While differences in utility costs are expected across State lines, the degree of the variation in methodologies and therefore SUA amounts is of concern as similarly situated households living a few miles apart could have significantly different benefit amounts.

2017 SUA Study

In August 2017, USDA published a study that reviewed States' SUA methodologies titled, *Methods to Standardize State Standard Utility Allowances* (Holleyman, et al, 2017). The 2017 SUA Study looked at HCSUAs from 2014 and found that most of the methodologies States employ fall into one of two categories: (1) those that rely on recent State-specific utility data; and (2) those that adjust a base number using an inflation measure such as the Consumer Price Index (CPI) of utility costs. States relying on State-specific utility data use a variety of data sources, including information obtained from

¹ Holleyman, Chris, Timothy Beggs, and Alan Fox. *Methods to Standardize State Standard Utility Allowances*. Prepared by Econometrica for the U.S. Department of Agriculture, Food and Nutrition Service, August 2017.

utility providers through public service commissioners or consumption information available from other sources. States that adjust a base number annually predominately use changes in the price indexes (for electricity, natural gas, etc.) to make these changes. For States using the second methodology, the frequency of updates to the underlying base number are often infrequent or nonexistent. The report found that less than half (42 percent) of States that update a base number know the source of their base number and many do not know what year it was established.

The 2017 SUA Study also found differences in how State's FY 2014 HCSUA values reflected actual utility expenditures among low-income households in their State.² One State had an HCSUA lower than average low-income household utility expenses in the State, five States had an HCSUA lower than the 70th percentile of low-income household utility expenses in the State, and 20 States had HCSUAs lower than the 80th percentile of low-income household utility expenses in the State. The 2017 SUA Study found that in 22 States the HCSUA met or exceeded the utility expenses of 85 percent of low-income households.

As part of the 2017 SUA Study, additional methodologies and data sources were considered to identify alternative methods for calculating SUAs. These options were evaluated to determine which methodology and sources could more accurately reflect utility costs for low-income households, be applied nationally, and allow for annual adjustments. Of the methodologies considered, the report recommended using a

² The 2017 SUA Study defined "low-income" as households with incomes at or below 150 percent of the Federal poverty level.

combination of the American Community Survey (ACS) and the Residential Energy Consumption Survey (RECS) to develop base-year SUAs, and a 3-year average of the CPI for fuels and utilities to make annual adjustments.

Standardizing HCSUA Methodology

The Department is concerned that the degree of flexibility in current regulations causes inequities from State to State. The 2017 SUA Study revealed that many States' SUAs are overinflated, which leads to additional benefits, and some States' SUAs underestimate how much households actually pay in utilities, resulting in lower benefits. The Department believes that standardizing SUA methodology would make SUAs and the program more equitable. Removing the inequities related to this deduction will also improve integrity by ensuring SUAs better reflect what low-income households are actually paying for utilities so that eligible households receive SNAP benefit amounts which more accurately reflect their circumstances, no matter the State in which they reside.

In order to address the variations found in the 2017 SUA Study and help ensure benefit equity across States, the Department is proposing to calculate each State's HCSUA using a standard methodology. The proposed standardization would set the HCSUA at the 80th percentile of utility costs for low-income households in the State. Standardizing at this level will reduce the amount of variation between utility costs and HCSUA amounts across States. Additionally, setting HCSUA values at the 80th percentile balances the need to create more accurate standards while still capturing households that have higher

than average utility costs, as most States require use of SUAs in lieu of actual costs. As noted earlier, the 2017 SUA Study found that there was greater variation in State-established HCSUA values than there was in utility expenditures. This new standardized methodology would apply to all States that choose to use an HCSUA, with a few exceptions noted below.

The proposed methodology would use best-available utility cost information from national Federal sources, such as the ACS and the RECS, to calculate HCSUAs annually. A combination of these two sources was recommended in the 2017 SUA Study to account for different utility end-uses, determining which energy costs are for heating or cooling versus other utilities, and to correct for upward bias in self-reported utility expenditures reflected in the source information. Under the proposed rule, base year HCSUAs would be calculated using ACS and RECS and interim years (RECS is not conducted annually) would be updated using a 3-year CPI average for fuel and utilities to make annual adjustments. All calculations would be conducted by FNS, alleviating State administrative burden associated with determining HCSUA values and reporting to FNS.

The Department intends to use ACS and RECS as the sources for base-year HCSUA calculations. The use of these specific sources, however, would not be codified in the proposed rule in order to maintain flexibility in the event better sources become available or these surveys cease to provide the necessary information. These sources would need to be able to determine accurate utility costs for low-income households, applied nationally, and allow for annual adjustments. If changes in the data sources from the

previous year occur, FNS would notify State agencies prior to release of the updated figures for that year.

ACS and RECS were found to be the best available sources for calculating the majority of HCSUAs; however, these surveys do not collect information for Guam and the Virgin Islands. Additionally, Guam and the Virgin Islands do not currently use an HCSUA. The Department is proposing to continue to allow these territories to use their own methodologies, and conduct their own calculations, subject to FNS approval. The Department is interested in receiving public comments about this proposed exception or other possible methods for developing HCSUAs for Guam and the Virgin Islands.

The proposed rule would not eliminate the State option to mandate SUAs (HCSUAs, LUAs, and single utility allowances) for all households with qualifying expenses. In States that use but do not mandate a SUA, the proposed rule would maintain a household's ability to choose using actual costs in determining eligibility and benefit amount. For States that use an HCSUA, mandatory or not, the HCSUA would be set by FNS using the standardized methodology, annually, on the fiscal year calendar. FNS would be responsible for releasing the HCSUA figures via memo to the State agencies near the same time that cost of living adjustments are announced and would make them available publicly on the FNS website. The Department intends for the proposed standardization to begin the first fiscal year following publication of the final rule.

Changes to Current SUA Options

Program rules currently allow State agencies to vary SUAs by factors such as household size, geographical areas, or season. For FY2019, no State chose to vary by season, only two States elected to vary by geographical area, and six States varied by household size. The number of States taking these options has been consistent in recent years.

The proposed rule would eliminate the State options to vary allowances by household size and geographic areas as part of the Department's efforts to bring greater benefit equity across States and in recognition of the low number of States taking these options.

One of the two States that currently choose to vary standards by geographical areas is Alaska. Alaska and Hawaii are granted additional considerations under program rules to account for cost of living differences, as well as further program flexibilities for Alaska because of extremely remote geography. Although no exceptions for Alaska and Hawaii are included in the proposed rule, the Department is interested in receiving public comments on whether additional attention or exceptions should be granted to Alaska and Hawaii in the proposed changes and how those might be best accomplished.

Consistent with the proposed rule's standardization efforts to promote more benefit equity, the Department is also proposing to eliminate the option for State agencies to include the excess heating and cooling costs of public housing residents in the LUA if they wish to offer the lower standard to such households. The proposed rule would also eliminate the option for States to include the cooling expense in the electricity utility allowance for States where cooling expenses are minimal. Such flexibility would not

support efforts to promote consistency and parity with this deduction and therefore the Department believes the option would no longer be appropriate to offer. As such, the proposed rule clarifies that residents of public housing who incur heating or cooling costs in States that mandate SUAs would receive the HCSUA. The Department is particularly interested in receiving comments from State agencies as to whether removing these options pose administrative challenges based on their current practices.

LUAs and Single Utility Allowances

Under the proposed rule, States would continue to use their own methodologies to determine LUA and single utility allowance amounts that do not exceed maximum limits established by the Department. In FY 2017, less than 8 percent of households used a single utility allowance or LUA when determining SNAP eligibility and benefit levels. Although a small portion of SNAP participants are impacted, the Department is proposing that these standards be capped at a percentage of the HCSUA to extend standardization efforts and mitigate future inconsistencies. The Department is proposing to cap LUAs at 70 percent of a State's HCSUA amount and single utility allowances at 35 percent of a State's HCSUA. When analyzing the SUA values developed as part of the 2017 SUA Study, it was found that most States' single utility allowances were near 35 percent of their HCSUA. Similarly, most States' LUAs did not exceed 70 percent of their HCSUA.

States would still need to calculate their own LUA and single utility allowance figures annually under the proposed changes. The methodology and final figures would continue

to be subject to the cap, as well as FNS review and approval. FNS would be responsible for releasing the capped amounts via memo to the State agencies near the same time that HCSUA figures and cost of living adjustments are announced and would make them available publicly on the FNS website. The Department is interested in receiving public comments on the proposed percentage caps, particularly from State agencies.

Updating the Telephone SUA

State agencies may use SUAs for any allowable utility expense listed at 7 CFR 273.9(d)(6)(ii)(C). Allowable utility expenses listed in the section include the costs of: heating and cooling; electricity or fuel used for purposes other than heating or cooling; water; sewage; well and septic tank installation and maintenance; garbage collection; and telephone. The Department is proposing to amend this section to add the cost of basic internet service.

The proposed inclusion of costs for basic internet service as an allowable utility expense for the shelter deduction is in recognition of internet access becoming a necessity for school, work, and job search. The proposed rule replaces the telephone standard (i.e., the single utility allowance for telephone costs) with a broader telecommunications standard that consists of costs for one telephone, basic internet service, or both. State agencies would not be authorized to create a single utility allowance solely for basic internet service; rather, basic internet service costs would be allowed as part of the new telecommunications standard. FNS will calculate the maximum amount annually by reviewing nationally available low-cost plans for one telephone line and basic internet

access. The Department estimates that the telecommunications standard would be approximately \$55 in FY 2020. Similar to LUAs and single utility allowances, States would still need to calculate their own telecommunications figures annually under the proposed changes. The methodology and final figures would be subject to the cap, as well as FNS review and approval.

The new telecommunications standard would be available to households with utility costs for one telephone, basic internet service, or both. Households with basic internet and/or telephone costs would be able to either receive the telecommunications standard or have their actual costs counted, but actual costs would be limited up to the amount of the telecommunications standard. For example, households with more than basic internet packages, such as those combined with cable television service, would not have the cost of their entire package counted. Rather these households would either receive the telecommunications SUA or have their actual costs of phone and/or basic internet counted, up to the amount of the standard, depending on the option their State selects. Additionally, States may include the telecommunications costs as part of their LUA so long as the telecommunications share of the LUA would not exceed the amount set for the telecommunications standard. The Department is interested in receiving public comments, particularly from State agencies, on this proposed change.

Procedural Matters

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This proposed rule has been determined to be Economically Significant and was reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

Regulatory Impact Analysis

As required for rules that have been designated as economically significant by the Office of Management and Budget, a Regulatory Impact Analysis (RIA) was developed for this proposed rule. It follows this rule as an Appendix. The following summarizes the conclusions of the RIA:

The Department has estimated the total reduction in Federal spending associated with the proposed rule to be approximately \$4.5 billion over the five years 2021-2025. This represents a reduction in Federal transfers (SNAP benefits). The Department estimates that approximately 16 percent of households will see an increase in their monthly SNAP allotment and another 19 percent will see a decrease in their monthly SNAP allotment. A very small number of households are estimated to lose eligibility for SNAP (less than 8,000 households).

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize and significant impacts on a substantial number of small entities. Pursuant to that review, the Secretary certifies that this rule would not have a significant impact on a substantial number of small entities.

The proposed rule would not have an impact on small entities because it primarily impacts SNAP households. Small entities, such as smaller SNAP-authorized retailers, would not be subject to any new requirement. On average, SNAP retailers would likely see a drop in the amount of SNAP benefits redeemed at stores if these provisions were finalized, but impacts on small retailers are not expected to be disproportionate to impacts on large entities. As of FY 2017, approximately 76 percent of authorized SNAP retailers (about 200,000 retailers) were small groceries, convenience stores, combination grocery stores, and specialty stores, store types that are likely to fall under the Small Business Administration gross sales threshold to qualify as a small business for Federal Government programs. While these stores make up most authorized retailers, collectively they redeem less than 15 percent of all SNAP benefits.

The proposed rule is expected to reduce SNAP benefit payments by about \$1 billion per year in net. However, not all States will see benefit losses; in some States HCSUAs will increase under the proposed rule, resulting in larger SNAP benefits for many households.

In total, 29 States are expected to see a net loss of SNAP benefits (about \$1.54 billion annually) and 22 are expected to see a net gain (about \$540 million annually). Based on USDA data, about 53 percent of stores would likely see lower redemptions and 47 percent would likely see increased redemptions.³

In States with reduced benefits, this would equate to about a \$177 loss of revenue per small store on average per month $[(1.54 \text{ billion} \times 15\%) / (109,000 \text{ stores}/12 \text{ months})]$. In 2017 the average small store redeemed more than \$3,800 in SNAP each month; the potential loss of benefits represents about 4.7 percent of their SNAP redemptions and only a small portion of their gross sales. Based on 2017 redemption data, a 4.7 percent reduction in SNAP redemptions represented between 0.01 and 0.92 percent of these stores' gross sales.

In States that gain benefits, this would equate to about a \$70 increase in revenue per small store on average per month $[(0.54 \text{ billion} \times 15\%) / (96,000 \text{ stores}/12 \text{ months})]$. This potential increase in benefits represents about 1.8 percent of their SNAP redemptions and between 0.01 and 0.36 percent of these stores' gross sales.

Executive Order 13771

Executive Order 13771 directs agencies to reduce regulation and control regulatory costs and provides that the cost of planned regulations be prudently managed and controlled through a budgeting process. The designation, as regulatory or deregulatory under EO

³ Data from the USDA Store Tracking and Redemption System (STARS).

13771, of any final rule resulting from the notice of proposed rulemaking will be informed by comments received. Details on the preliminary estimates of costs and cost savings may be found in the economic analysis.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures by State, local or tribal governments, in the aggregate, or the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This proposed rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector of \$100 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

SNAP is listed in the Catalog of Federal Domestic Assistance under Number No.10.551. For the reasons set forth in the Final Rule codified in 7 CFR part 3015, subpart V and related Notice (48 FR 29115), this Program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, impose substantial direct compliance costs on State and local governments, and are not required by statute, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13132.

The Department has considered the impact of setting HCSUA and SUA national standards and determined that this rule has federalism impacts. However, this rule does not preempt State or local law and does not impose substantial direct compliance costs on State and local governments, so under section (6)(b) of the Executive Order, a federalism summary is not required. The Department requests comments from State and local officials as to the need for national standards and any alternatives to the standards proposed.

Executive Order 12988, Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full and timely implementation. This rule is not intended to have retroactive effect unless so specified in the Effective Dates section of the final rule. Prior to any judicial challenge to the provisions of the final rule, all applicable administrative procedures must be exhausted.

Civil Rights Impact Analysis

FNS has reviewed this proposed rule in accordance with USDA Regulation 4300-4, “Civil Rights Impact Analysis,” to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex or disability. After a careful review of the rule’s objective and implementation, FNS has determined that this rule is likely to have an adverse or disproportionate impact on protected groups. Households with an elderly or disabled individual will be disproportionately affected by changes to HCSUAs, both positively and negatively, because these households do not face the cap on excess shelter costs and therefore would experience a greater benefit increase or decrease.

Executive Order 13175

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including

regulations, legislative comments or proposed legislation. Additionally, other policy statements or actions that have substantial direct effects on one or more Indian Tribes, the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes also require consultation. FNS provided opportunity for consultation on the issue on June 27, 2019, but received no feedback. If further consultation is requested, the Office of Tribal Relations will work with FNS to ensure quality consultation is provided.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; 5 CFR 1320) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number.

In accordance with the Paperwork Reduction Act of 1995, this proposed rule will alter information collection requirements that are subject to review and approval by the Office of Management and Budget; therefore, FNS is submitting for public comment the changes in the information collection burden that would change the OMB burden inventory as a result of adoption of the proposals in the rule. While FNS is requesting a new OMB Control Number for these requirements in this proposed rule, this proposal would reduce the existing burden on State agencies currently approved under OMB Control Number 0584-0496; Expiration Date 3/31/2020. FNS intends to merge this

new collection to currently approved burden after the final rulemaking information collection request is approved.

Written comments on the information collection requirements included in this proposed rule must be received by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for FNS, 725 17th St NW, Washington, DC 20503, or via OIRA_Submissions@omb.eop.gov. Please reference the title of this rule in your message. Please also send a copy of your comments to SNAPCPBrules@usda.gov.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will

be a matter of public record. Once OMB approves the information collection request (ICR), the agency will publish a separate notice in the Federal Register announcing its approval.

Title: Standardization of State Heating and Cooling Standard Utility Allowances

OMB Number: 0584-NEW

Expiration Date: [Not Yet Determined.]

Type of Request: New collection

Abstract: Section 5 of the Food and Nutrition Act of 2008, as amended, permits States to use standard utility allowances (SUAs) in lieu of actual utility expenses in determining a household's shelter costs for the purposes of the excess shelter deduction.

Under current regulations, all States may develop SUAs for their SNAP households to be used in lieu of actual costs. States currently can decide which of the allowable utility expenses will be covered by SUAs and how they are calculated. The proposed rule would provide a clearer and more consistent policy by standardizing the methodology for calculating SUAs.

In the currently approved burden, FNS estimates 53 State agencies will submit one request each to adjust the SUAs, for a total annual response of 53 requests at a minimum of 10 hours annually (53 State agencies x 1 SUAs request = 53 total annual responses x 10 hours = 530 hours). The total burden for this provision is estimated to be 530 hours per year. However, with this rule FNS estimates 53 State agencies will submit one request

each to adjust the SUAs, for a total annual response of 53 requests at a minimum of 1 hour annually (53 State agencies x 1 SUAs request = 53 total annual responses x 1 hours = 53 hours). The total burden for this altered provision is estimated to be 53 hours per year. This is a decrease of -447 burden hours for this requirement.

The rule would make FNS responsible for calculating the heating and cooling SUA (HCSUA) for all States. States still have the option to not use the HCSUA and take a household's actual costs instead, however, if a State uses an HCSUA, it has to be the amount that FNS calculated. The rule would also cap the amounts of the LUAs and single utility expenses. States would continue to calculate these figures; however, their values cannot exceed the capped amount set by FNS.

States would continue to choose which types of SUAs they will use and report this information to FNS annually. Because FNS would calculate HCSUA, telecommunications SUA, and caps for LUAs and single utility allowance, the required burden on States would be significantly reduced. This is the lone reporting requirement that is being addressed in this section.

The recordkeeping is maintained under OMB Control Number 0584-0496; Expiration Date: 3/31/2020. There is no additional recordkeeping burden required for this new OMB Control Number because there is no requirement to maintain the reports submitted to FNS.

Description of Costs and Assumptions: States will be required to report to FNS annually. The Department estimates that this reporting will require an hour to prepare and process.

Reporting Burden Activities: The activity is limited to preparation, processing and submitting a report to FNS annually regarding the SUA(s) the State will use in SNAP. We have rounded these burden times in the chart below.

The overall estimated burden we are requesting for States is 53 total annual burden hours and 53 total annual responses.

Estimated Number of Respondents: 53 State Agencies

Estimated Frequency of Response: 1

Estimated Total Annual Responses: 53

Estimated Time per Response: 1.0 hours

Estimated Total Annual Burden Hours: 53

Reg. Section	Affected Public	Estimated Number of Respondents	Estimated Frequency of Response	Total Annual Responses	Number of Burden Hours Per Response	Estimated Total Burden Hours	<i>Previous Submission Total Person Hours</i>	<i>Difference due to Program Changes</i>	<i>Differences due to adjustments</i>	Hourly Wage Rate*	Estimated Cost to Respondents
273.9 (d)(6) (iii)(B)	State Agencies	53	1	53	1	53	530	-477	0	30.12	\$1,596
Grand Total		53	1	53	1	53	530	-477	0	30.12	\$1,596

*Based on the Bureau of Labor Statistics May 2018 Occupational and Wage Statistics - the salaries of the case managers are considered to be “Social Workers – other” functions performed by State and local agency staff are valued at \$30.12 per staff hour 21-1029 (<https://www.bls.gov/oes/current/oes211029.htm>)

E-Government Act Compliance

The Department is committed to complying with the E-Government Act of 2002 to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 7 CFR Part 273

7 CFR Part 273

Administrative practice and procedure, Claims, Employment, Food stamps, Fraud, Government employees, Grant programs-social programs, Supplemental Security Income, Wages.

Determining household eligibility and benefit levels, Income and deductions.

Accordingly, 7 CFR part 273 is proposed to be amended as follows:

PART 273 – CERTIFICATION OF ELIGIBLE HOUSEHOLDS

1. The authority citation for part 273 continues to read as follows:

Authority: 7 U.S.C. 2011-2036.

2. In § 273.9, revise paragraphs (d)(6)(ii)(C), (d)(6)(iii)(A),(d)(6)(iii)(D) and (E) to read as follows:

§ 273.9 Income and deductions.

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(d) * * *

(6) * * *

(ii) * * *

(C) The cost of fuel for heating; cooling (i.e., the operation of air conditioning systems or room air conditioners); electricity or fuel used for purposes other than heating or cooling; water; sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; all service fees required to provide service for one telephone, including, but not limited to, basic service fees, wire maintenance fees, subscriber line charges, relay center surcharges, 911 fees, and taxes (not to exceed the amount of telecommunications standard described in paragraph (d)(6)(iii)(B)(3) of this section); basic internet connection (not to exceed the amount of telecommunications standard described in paragraph (d)(6)(iii)(B)(3) of this section); and fees charged by the utility provider for initial installation of the utility. One-time deposits cannot be included.

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(iii) * * *

(A) A State agency may use standard utility allowances (standards) in place of actual costs in determining a household's excess shelter deduction. The State agency may use different types of standards but cannot allow households the use of two standards that include the same expense. Only utility costs identified in paragraph (d)(6)(ii)(C) of this section may be used in developing standards described in (d)(6)(iii)(A)(1) and (3). The following standards are allowable:

- (1) An individual standard for each type of utility expense;
- (2) A standard utility allowance for all utilities that includes heating or cooling costs (HCSUA); and
- (3) A limited utility allowance (LUA) that includes electricity and fuel for purposes other than heating or cooling, water, sewerage, well and septic tank installation and

maintenance, and garbage or trash collection. The LUA must include expenses for at least two utilities. The LUA may also include telecommunication costs so long as the share of telecommunications costs in the LUA does not exceed the maximum amount set annually by FNS, as described in paragraph (d)(6)(iii)(B)(3) of this section.

(B) FNS will calculate the standards and caps described in paragraph (d)(6)(iii)(A) of this section annually, with the exception of the standards described in paragraph

(d)(6)(iii)(B)(4) of this section. The State agency must review the standards described in paragraphs (d)(6)(iii)(B)(2), (d)(6)(iii)(B)(3), and (d)(6)(iii)(B)(4), annually and make adjustments to reflect changes in costs, rounded to the nearest whole dollar. State agencies must provide the amounts of standards to FNS when they are changed annually and submit methodologies used in developing and updating standards to FNS for approval when the methodologies are developed or changed.

(1) For the HCSUA described in paragraph (d)(6)(iii)(A)(2), standards will be calculated by FNS based on the 80th percentile of low income households' utility costs in the State. FNS will use the best-available utility cost information from national Federal surveys, such as the American Community Survey (ACS) and the Residential Energy Consumption Survey (RECS).

(2) For the LUA described in paragraph (d)(6)(iii)(A)(3), standards will be capped at 70 percent of the State's HCSUA.

(3) For individual utility expenses described in paragraph (d)(6)(iii)(A)(1), standards will be capped at 35 percent of the State's HCSUA, with the exception of the telecommunications standard. The telecommunications standard will have a maximum

amount for all States set annually by FNS. The telecommunications standard includes the cost of one telephone, basic internet service, or both.

(4) Standards for Guam and the Virgin Islands may be developed by the State agency for utility costs identified in paragraph (d)(6)(ii)(C).

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(D) At initial certification, recertification, and when a household moves, the household may choose between a standard or verified actual utility costs for any allowable expense identified in paragraph (d)(6)(ii)(C) of this section, unless the State agency has opted, with FNS approval, to mandate use of a standard. Households certified for 24 months may also choose to switch between a standard and actual costs at the time of the mandatory interim contact required by §273.10(f)(1) if the State agency has not mandated use of the standard.

(E) *Option to make standard utility allowances mandatory* (1) A State agency may mandate use of standard utility allowances for all households with qualifying expenses if the State uses one or more standards that include the costs of heating and cooling and one or more standards approved by FNS that do not include the costs of heating and cooling, and the standards will not result in increased program costs. The prohibition on increasing program costs does not apply to necessary increases to standards resulting from utility cost increases.

(2) If the State agency chooses to mandate use of standard utility allowances, it must use a standard utility allowance that includes heating or cooling costs to residents of public housing units which have central utility meters and which charge the households only for excess heating or cooling costs. The State agency also must not prorate a standard utility

allowance that includes heating or cooling costs provided to a household that lives and shares heating or cooling expenses with others.

(3) In a State that chooses this option, households entitled to the standard may not claim actual expenses, even if the expenses are higher than the standard. Households not entitled to the standard may claim actual allowable expenses.

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Stephen L. Censky
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Food, Nutrition, and Consumer Services

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